

EXHIBIT D

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re: Chapter 9

SUFFOLK REGIONAL OFF-TRACK BETTING Case No.
CORPORATION, 12-43503-CEC

Adjusted Debtor.

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JENNIFER TOMASINO, KEVIN MONTANO, RICHARD
MEYER, and APRYL L. MEYER,

Plaintiffs,

-against- Adv. Proc. No.
18-1033-CEC

INCORPORATED VILLAGE OF ISLANDIA, BOARD OF
TRUSTEES OF THE VILLAGE OF ISLANDIA, DELAWARE
NORTH ISLANDIA PROPERTIES, LLC, aka DELAWARE
NORTH, and SUFFOLK REGIONAL OFF-TRACK BETTING
CORPORATION,

Defendants.

-----X

October 12, 2018
10:22 a.m.

100 Motor Parkway
Hauppauge, New York

DEPOSITION of KEVIN MONTANO, a Plaintiff
herein, taken by Adversarial Parties, pursuant
to Federal Rules of Civil Procedure, and Notice,
held at the above-mentioned time and place,
before Edward Leto, a Notary Public of the State
of New York.

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2 A P P E A R A N C E S:

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LAW OFFICES OF ANTON J. BOROVINA
Attorneys for Plaintiffs
225 Broad Hollow Road, Suite 303
Melville, New York 11747

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BY: ANTON J. BOROVINA, ESQ.

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Attorneys for Defendants Incorporated
Village of Islandia and Board of
Trustees of the Village of Islandia
267 Carleton Avenue, Suite 301
Central Islip, New York 11722

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BY: MICHAEL STANTON, ESQ.

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HODGSON RUSS, LLP
Attorneys for Defendants Delaware
North Islandia Properties, LLC aka
Delaware North
140 Pearl Street, Suite 100
Buffalo, New York 14202

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BY: DANIEL A. SPITZER, ESQ.

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ECKERT SEAMANS CHERIN & MELLOTT, LLC
Attorneys for Adjusted
Debtor/Defendant Suffolk Regional
Off-Track Betting Corporation
10 Bank Street, Suite 700
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BY: CHRISTOPHER F. GRAHAM, ESQ.
REN-ANN WANG, ESQ., of Counsel

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FEDERAL STIPULATIONS

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IT IS HEREBY STIPULATED AND AGREED by
and between the parties hereto, through their
respective counsel, that the certification,
sealing and filing of the within examination
will be and the same are hereby waived;

IT IS FURTHER STIPULATED AND AGREED
that all objections, except as to the form of
the question, will be reserved to the time of
the trial;

IT IS FURTHER STIPULATED AND AGREED that
the within examination may be signed before any
Notary Public with the same force and effect as
if signed and sworn to before this Court.

1 K. Montano

2 K E V I N M O N T A N O, the Witness herein,
3 having been first duly sworn by a Notary
4 Public in and of the State of New York, was
5 examined and testified as follows:

6 EXAMINATION BY

7 MR. SPITZER:

8 Q Please state your full name for
9 the record.

10 A Kevin Montano.

11 Q What is your current address?

12 A 4 Dawson Court, Islandia, New York
13 11749.

14 (K. Montano Exhibit A,
15 Amended Complaint, was marked for
16 identification, as of this date.)

17 Q Good morning, Mr. Montano.

18 A How are you?

19 Q Good. Thank you for coming in
20 today. My name is Daniel Spitzer. I represent
21 Delaware North in the proceeding that has been
22 brought against Delaware North and the Village
23 of Islandia.

24 Have you ever been deposed before?

25 A No.

1 K. Montano

2 There was no neighbors next to us, so it was a
3 lot.

4 Q Were you the first house built in
5 the subdivision?

6 A I think we did the first deal, but
7 the other house got built, like, a little bit
8 faster.

9 Q Do you know who's in the other
10 house?

11 A I mean, the neighbors but I don't
12 really, like -- you know.

13 Q I just wanted to know if you know
14 their names?

15 A They're the Pekors.

16 Q Did you at the time you were
17 investigating the house, look at the Village
18 zoning code?

19 A No.

20 Q Did you at the time you were
21 looking at the house, look at the Village Master
22 Plan?

23 A I don't even know what that is.

24 Q So, then you also didn't look at
25 the Master Plan Update?

1 K. Montano

2 A No.

3 Q Did you know that the Master Plan
4 for the Village of Islandia says that there is a
5 concern about single family homes being built
6 along north -- excuse me -- Shafter Street,
7 S-H-A-F-T-E-R --

8 A Yes, Shafter.

9 Q -- because of noise generated by
10 the metroplex?

11 A No, I didn't know.

12 Q So, was the hotel there when you
13 moved in?

14 A Yes.

15 Q And let's talk about the hotel
16 property for a little while if we could. How
17 has the hotel property physically changed since
18 you moved in?

19 A Since before the casino or when we
20 moved in?

21 Q You're getting to the question.
22 You phrased it frankly better than I did. What
23 I'm looking for is any changes that happened as
24 a result of the casino in terms of the physical
25 aspects of the property?

1 K. Montano

2 A The physical aspects, I mean, they
3 put a fence. That's a physical.

4 Q Yes, it is.

5 A But besides that, I mean, before
6 that, before we moved in there was no fence. It
7 was, you know, but then after they put up a
8 fence.

9 Q When you're talking about a fence,
10 you're talking specifically the fence between
11 the parking lot and Dawson Court?

12 A Correct.

13 Q Did they change the lighting in
14 the parking lot?

15 A I think they put an extra light
16 somewhere in there, but, like, in the back in
17 the parking lot.

18 Q That light that you just
19 mentioned, is that visible from your house?

20 A Yes.

21 Q So tell me where in the back you
22 think that extra light is.

23 A Just in I guess the parking --
24 remember, the front parking lot for the casino
25 is my backyard, so it's the front of the casino

1 K. Montano

2 which is my backyard. So when I'm in the
3 backyard, you can see it.

4 Q If I was standing in front of the
5 casino, your house is --

6 A The one on the left. If you're
7 standing in front of the casino, my house is on
8 the left.

9 Q And the light is basically on the
10 left side of the casino?

11 A Yes. I mean, on the left side.
12 Correct.

13 Q How high up on the building is
14 this lighting?

15 A No. It's in the parking lot.

16 Q It's in the parking lot?

17 A Yes. It's not on the building,
18 it's on the parking lot.

19 Q Like a --

20 A Like a light post.

21 Q Other than the fence and the light
22 post, are there any other physical changes to
23 the property that you're aware of?

24 A That I'm aware of, no.

25 Q And just to be clear, I'm not

1 K. Montano

2 asking you about the inside at all.

3 A No.

4 Q So, to your knowledge, they didn't
5 increase the amount of parking spaces?

6 A No.

7 Q Do any of the windows in your
8 house face the parking lot and casino?

9 A Yes.

10 Q Tell me about those rooms in the
11 houses that face the casino.

12 A My daughter's room and we have,
13 like, a bay window that you can see inside the
14 house. It's pretty big, so you can see from the
15 casino in the parking lot, you can see to the
16 house.

17 Q Let's start with your daughter's
18 room, if I may. Which floor of the house is
19 that on?

20 A Second floor.

21 Q And which daughter is that?

22 A Isabella.

23 Q Is that window above the level of
24 the fence?

25 A No, because -- it would be kind of

1 K. Montano

2 Q Just to jog your memory, might it
3 have been sometime in 2016?

4 A Yes, it had to be. Had to be.

5 Q As part of your concern, did you
6 go to any public hearings?

7 A After that, yes. We started
8 educating ourselves on what was going on.

9 Q And what did you learn?

10 MR. BOROVINA: Sorry,
11 what's the question?

12 MR. SPITZER: He said that
13 he started educating himself, so I
14 asked him what did he learn.

15 MR. BOROVINA: If you can
16 answer.

17 A We started finding out more what a
18 casino could bring to a town, a city and so on
19 so forth, and what are the pluses and negatives
20 and that was kind of, like, the beginning of how
21 we started discussing what was going on.

22 Q Do you remember any specifics that
23 you learned?

24 A Property value, prostitution,
25 drugs, you know, unwanted people coming from all

1 K. Montano

2 types of places.

3 Q And these were all things you
4 learned about before the casino opened?

5 A That was when we found out that a
6 casino was actually being put next door.

7 Q And I think we've already covered
8 this, you said that you don't know whether your
9 property value has changed since the casino
10 opened?

11 A I mean, I'm not into -- like, my
12 wife is the one who deals with all of that.

13 Q Did you ever see any incidences of
14 prostitution in your neighborhood prior to the
15 casino opening?

16 A No.

17 Q Did you see any incidences of
18 prostitution in your neighborhood after the
19 casino opening?

20 A Me myself personally, I have not.

21 Q By the way, you gave at the
22 beginning several incidents that you were aware
23 of. I'm not in any way asking you to repeat
24 yourself. Don't feel like you need to repeat
25 yourself. That's part of the record.

1 K. Montano

2 A Okay.

3 Q Did you ever see any drug deals
4 prior to the casino opening?

5 A No.

6 Q Did you ever see any drug deals
7 after the casino opened?

8 A No, but we smell a lot of
9 marijuana coming from the parking lot.

10 Q Speaking of parking lots, is there
11 a Park & Ride near your house?

12 A Yes.

13 Q Was that facility there when you
14 bought your house?

15 A Yes.

16 Q Did you ever have any problems?

17 A No.

18 Q Do you know why some of the folks
19 involved with this lawsuit would be concerned
20 about the, quote/unquote, "characters" at the
21 Park & Ride lot?

22 A No.

23 Q Were you concerned about moving
24 next to that parking lot?

25 A No.

1 K. Montano

2 Q Were there any other issues that
3 you learned about that concerned you about
4 casinos?

5 A No, just crime in general. Like,
6 you know, that's it. Everything that has to do
7 with crime. That was the biggest situation.

8 Q Let me ask you to take a look at
9 Exhibit A again, if I might. Could you do me a
10 favor and please turn to page 11 and look at
11 paragraph 78. The last paragraph on that page,
12 just take a moment to re-read that.

13 A Okay.

14 Q Are you all set, sir?

15 A Yes.

16 Q In that paragraph, do you see
17 where it says "Delaware North's use of the
18 premises is presently causing and effecting and,
19 unless abated, will continue to cause and effect
20 a directly related, local and more intense
21 increase in crime rates, prostitution, public
22 intoxication, gambling and drug addiction and a
23 diminution in the value of Plaintiffs'
24 respective properties," is that what it says?

25 A Yes.

1 K. Montano

2 MR. BOROVINA: No, that
3 person lost the election.

4 A All right, so that's how I see it.
5 I mean, there's an increase and everything you
6 hear in the news. Obviously I'm not in the
7 actual venue so I don't know, you know, about
8 the actual prostitution, but for what you hear
9 in the news and what you see in the news, that's
10 what.

11 Q Okay, are you done?

12 A Yes.

13 Q Would you take a look on page 13
14 at paragraph 34?

15 A 13?

16 MR. STANTON: Paragraph 84.

17 Q I'm sorry, 84. Thank you. Page
18 13, paragraph 84.

19 A Okay.

20 Q Do you see where in that paragraph
21 it talks about the potential threats to
22 yourselves and to your children?

23 A Yes.

24 Q Are there any other threats other
25 than what you've described or conduct other than

1 K. Montano

2 Q Do you know if there's a fence
3 around the Park & Ride?

4 A I'm not really -- my property
5 doesn't hit the Park & Ride, so it's, you know,
6 it's a little further out.

7 Q Have you ever thought about your
8 home as an investment?

9 A In what way?

10 Q Well, you testified that you
11 purchased the home about five years ago and that
12 it's currently worth between 600 and \$700,000,
13 right?

14 A Right.

15 Q Do you know if the house is worth
16 more now than what you paid for it?

17 A I don't know how much it's worth
18 but, I mean, any time you buy a piece of
19 property, you know, you expect it to at least
20 hold its equity, right?

21 Q So you never thought that there
22 was a possibility that the home might decline in
23 value?

24 A No, definitely not.

25 Q And has the home increased in

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C E R T I F I C A T E

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I, EDWARD LETO, a Notary Public in and
for the State of New York, do hereby certify:

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THAT the witness whose testimony is
hereinbefore set forth, was duly sworn by me;

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and

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THAT the within transcript is a true
record of the testimony given by said witness.

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I further certify that I am not related,
either by blood or marriage, to any of the
parties in this action; and

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THAT I am in no way interested in the
outcome of this matter.

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IN WITNESS WHEREOF, I have hereunto set
my hand this 18th day of October, 2018.

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EDWARD LETO

